



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/902,546      | 07/10/2001  | David Braun          | 043210-1420-00      | 6891             |

23409 7590 07/29/2003

MICHAEL BEST & FRIEDRICH, LLP  
100 E WISCONSIN AVENUE  
MILWAUKEE, WI 53202

|          |
|----------|
| EXAMINER |
|----------|

SINGH, ARTI R

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

1771

DATE MAILED: 07/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Applicati n No.</b> | <b>Applicant(s)</b> |  |
|                              | 09/902,546             | BRAUN, DAVID        |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Ms. Arti Singh         | 1771                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on amendment filed on 05/06/2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Response to Amendment***

1. The Examiner has carefully considered Applicant's amendments and accompanying remarks filed on 05/06/2003. Applicant's amendments to claims 1 and 10; and amendment to the specification have all been entered. The amendment made to the specification overcomes the objection made to the incorrect use of trademarks in paragraph 1 of the previous office action and is thus withdrawn. All previously made rejections are now withdrawn in light of the newly applied rejections.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,845,336 issued to Golde. Golde teaches a protective, ventilated, and weather-resistant garment in the form of a jacket or coat. The garment is especially configured and structured for wear by sports participants who are subjected to the elements, need physical protection for their person, may need to carry a variety of personal items with them in the garment, and also desire an adequate ventilation air flow during warm-weather and hot-weather conditions. Such persons may include operators or occupants of sports motor vehicles, for example, of motorcycles, snowmobiles, boats, bicycles, and some open aircraft. Preferably,

Art Unit: 1771

the garment includes an outer shell made primarily of breathable water-proof material (i.e., of Gortex, for example). The garment is especially designed and constructed to keep the wearer protected during foul-weather, as well as providing adequate ventilation during fair-weather and hot-weather wear. Additionally, in the event of a mishap, the garment provides important physical protection to the wearer (col. 1, lns 5-25). Accordingly, the present invention according to one aspect provides a garment having an outer shell made of water-impermeable material, and having ventilation openings provided on the garment through which ventilation air may pass. These ventilation openings may be secured entirely shut or may be variably opened so that the garment is comfortably worn on cool, fair and hot days. For wear in foul weather, and to exclude both rain water and traffic mist, a water-excluding labyrinth seal structure overlies the ventilation openings. The labyrinth seal structure includes features to gutter or direct water outside of the suit. Consequently, rain water and even wind-driven rain and traffic mist is substantially excluded from passing into the garment through these ventilation openings during such foul-weather wear. The garment also preferably includes features, such as body armor panels and abrasion resistant materials, for improving the physical protection afforded by the garment in the event of a spill from a sport vehicle. The present invention may be seen to provide a versatile all-weather garment, the garment including a water-proof shell having a front panel and a back panel cooperatively providing a neck opening, and a pair of sleeves one for each of the wearer's arms, a generally vertically extending opening dividing the front panel into two parts and allowing ingress and egress from the garment; the front panel, back panel, and sleeves being formed of a water-proof fabric material; and a slit-like ventilation opening defined in the shell, the ventilation opening having a pair of opposite sides which may gape apart when open to allow ventilation air to pass, closure means defining a closure line lengthwise of the slit-like ventilation

Art Unit: 1771

opening for selectively opening and closing the ventilation opening, the shell including a pair of water-proof fabric layers one overlying the other and both adjacent to and extending along one side of the slit-like ventilation opening to cooperatively define an elongate pocket, the shell carrying a flexible water-proof flap member adjacent to and extending along the other side of the slit-like ventilation opening, and in a first position the flap member not extending from the other side of the slit-like opening significantly beyond the closure line, in a second position the flap member extending across the closure line and into the pocket to cooperate there with the pair of fabric layers to define a labyrinth seal structure overlying the closure line, whereby in the second position of the flap member the labyrinth seal structure substantially prevents wind-blown water from passing through the ventilation opening. Viewing FIGS. 2 and 2a in combination with FIG. 1, it is seen that this coat 16 generally includes an outer shell 18 formed substantially of water-proof fabric material. The shell 18 may be formed of a water-proof fabric material such as GORETEX example. Another possible choice for the material from which the shell 18 may be formed is conventional waxed cotton canvas. Cordura nylon fabric and other nylon fabrics are also available with a waterproof membrane. This membrane may be polyurethane, for example. Other waterproof fabric and fabric-with-membrane materials are readily available in the market. Conventional construction practices including providing a waterproof taping at seams of the jacket will apply also in making the shell 18. It will be understood that many alternative materials of construction for the jacket shell 18 are available and may be utilized, and that the invention is not limited to any particular material of construction for the jacket. For example, a waterproof flexible plastic sheet material (rather than or in combination with a fabric) may be used to make all or a part of the shell 18. The shell 18 includes a front panel 20 divided into left and right parts (20l and 20r) by a vertically extending opening 22

Art Unit: 1771

providing for the rider 10 to put the coat on and take it off. The coat 16 also includes a back panel 24 (seen in FIG. 2a), a left sleeve 26l, and a right sleeve 26r. The back panel 24 may include a conventional ventilation opening 24a. In this case, the ventilation opening 24a is provided with a zipper type of slide fastener (not seen in the drawing Figures) for controlling opening and closing of this ventilation opening, and is also provided with a conventional rain flap overlying the zipper and its opening. The front panel 20 and back panel 24 each have respective lower hems 20b and 24b. Although it is not seen in the drawing Figures, it will be understood that within the shell, the coat 16 may include an insulating liner, or liners. In the case of a coat provided with more than one such liner, the liners are conventionally of differing weights, and the lighter one of these is permanently installed in the coat. A heavier inner liner for use in cold weather is removable from the coat, usually by means of snaps or zipper attachments. In addition to the above, and as is seen in FIG. 6, in the closed foul-weather configuration of the ventilation opening 38, there is defined a labyrinth seal configuration overlying the zipper 58. That is, the underlying flap 54 is pushed deeply into the pocket 52a formed by flap 52, and forms a flap within a pocket. Importantly, the flap 54 itself forms a pocket 54a facing opening 38. As is seen in FIG. 6, water which does enter the opening 38, will be directed into pocket 54a, and will not enter the coat past zipper 58. The pocket 54a also forms a vertically extending gutter having a closed lower end at 38l. From the closed lower end of the gutter in pocket 54a, the water may drain from the labyrinth formed at opening 38, but can not enter the coat 16.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti Singh whose telephone number is 703-305-0291. The examiner can normally be reached on M-F 8:00am to 6:00 pm.

Art Unit: 1771

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-873-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in black ink, appearing to be 'Arti Singh', with a long horizontal stroke extending to the right.

Ms. Arti Singh  
Patent Examiner  
Art Unit 1771

ars  
July 28, 2003